

REMARKS

Claims 1-16 are pending in the present application. Claims 1-10 and 15-16 are rejected. Claims 11-14 are withdrawn. In the above amendments, claims 1-2, 4, 6-10 and 15-16 have been amended, and claims 3 and 5 have been canceled. New claim 17-57 have been added. Thus, after entry of the above amendments, claims 1-2, 4 and 6-57 will be pending. Applicant believes that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

I. Claim 2 Objection

Claim 2 has been amended in accordance with the Examiner's suggestion to correct a typographical error. Accordingly, Applicant respectfully requests that the objection to claim 2 be withdrawn.

II. Claims 1-5, 7-8, 10 and 15-16 Rejected Under 35 U.S.C. § 112, first paragraph

Claims 1-5, 7-8, 10 and 15-16 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 3 and 5 have been canceled. With respect to claims 1-2, 4, 7-8, 10 and 15-16, Applicant respectfully traverses.

Applicant apologizes for Mr. Kordich not responding to examiner's question. The Office Action states: "The examiner finds no support in the original disclosure about 'a second user input indicative of user preferred portions of additional information related to the extracted information' as recited in the claims." Office Action, page 5. Applicant respectfully disagrees. This claimed subject matter is fully supported by at least paragraph [0036] of Applicant's specification, which states:

[I]f the user desires additional information regarding a song or advertisement heard through the speaker 31, the user can activate the user interface 42 to request additional information regarding the song or advertisement. The additional information would be presented to the user on a display 46. Additionally, instead of displaying all available information, the user could select only a representative portion for presentation on the display 46. After the additional information is presented to the user, the user interface 42 may also be operated to make specific selections pertaining to the information presented. A menu

scheme can be implemented using the display 46 and the user interface 42 to facilitate selection of specific items included in the information.

Applicant's specification, paragraph [0036] (emphasis added). The "*first user input*" recited in claim 1 corresponds to the following statement in paragraph [0036]: "[T]he user can activate the user interface 42 to request additional information regarding the song or advertisement." The "*second user input*" recited in claim 1 corresponds to the following statement in paragraph [0036]: "After the additional information is presented to the user, the user interface 42 may also be operated to make specific selections pertaining to the information presented."

The claimed subject matter is also fully supported by original claim 2, which recited: "*wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative of the second input, the second input being indicative of user preferred portions of the information representative of the hidden data presented to the user.*"

Claim 7 recites "*the extracted hidden data including identifier information for the portable communication device.*" Claim 16 recites "*wherein the identification information for the portable communication device is a serial number of the portable communication device.*" This claimed subject matter is supported by paragraph [0044] of Applicant's specification, which states: "The base station 50 receives the user response signal 92 and extracts the serial number information from the signal 92." This claimed subject matter is also supported by original 7, which recited a "*base station configured to (i) receive and process information broadcast from a portable communication device, (ii) extract hidden data from the processed broadcast information, the extracted hidden data including identifier information*" (emphasis added).

The Office Action states: "Serial number information is different from the identification information for the portable communication." Office Action, page 6. However, "serial number information" is an example of "identifier information" as recited in claim 7 and "identification information" as recited in claim 16. Thus, the reference to "serial number information" in Applicant's specification is sufficient to provide support for the recitation of "*identifier information*" in claim 7 and "*identification information*" in claim 16. Moreover, as indicated above, original claim 7 recited "*identifier information*," which provides further support for the claimed subject matter.

In view of the foregoing, Applicant respectfully submits that claims 1-2, 4, 7-8, 10 and 15-16 fully comply with the requirements of 35 U.S.C. § 112, first paragraph. Accordingly,

Applicant respectfully requests that the rejection of claims 1-2, 4, 7-8, 10 and 15-16 under 35 U.S.C. § 112, first paragraph be withdrawn.

III. Claims 1-5, 10 and 15-16 Rejected Under 35 U.S.C. § 112, second paragraph

Claims 1-5, 10 and 15-16 stand rejected under 35 U.S.C. § 112, second paragraph. Applicant has amended claims 1 and 10 to address the issues referred to in the Office Action. Claims 3 and 5 have been canceled. Accordingly, Applicant respectfully submits that claims 1-2, 4, 10 and 15-16 fully comply with the requirements of 35 U.S.C. § 112, second paragraph, and requests that the rejection of these claims be withdrawn.

IV. Claims 1-4 and 10 Rejected Under 35 U.S.C. § 102(e)

Claims 1-4 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,125,172 to August et al. (hereinafter, "August"). Claim 3 has been canceled. With respect to claims 1-2, 4 and 10, Applicant respectfully traverses.

Applicant respectfully submits that the cited references do not teach or suggest "*an embedding unit for embedding the output with identification information associated with the portable communication device,*" as recited in amended claim 1. The Office Action acknowledges that this claimed subject matter is not taught or suggested by August. See Office Action, page 12. However, the Office Action asserts that this subject matter is taught by Goodman. Applicant respectfully disagrees.

The Office Action refers to col. 8¹, lines 28-30 of Goodman. See Office Action, page 12. This portion of Goodman states:

First the terminal sends an "off hook" message to the nearest base station. The base station relays the message, and the identity of the wireless terminal, to the cellular control unit. The controller uses the information in this message to authenticate the calling party. If the caller is authorized to place a call, the controller returns a "dial tone" message to the base station. The base station extracts the terminal identifier from the information field of the dial tone message and uses their identifier to relay dial tone to the WIU. The response to this message is a packet containing

¹ The Office Action refers to col. 9, lines 28-30 of Goodman. However, the portion of Goodman that is quoted in the Office Action actually corresponds to col. 8, lines 28-30 of Goodman.

the called party's number. This enables the controller to attempt to establish a connection, through the local central office, to the called party.

August, col. 8, lines 22-34. Thus, the cited portion of Goodman refers to a “terminal identifier.” This presumably is an identifier that identifies the wireless terminal. Goodman indicates that the terminal identifier is included as part of a dial tone message that is sent from the cellular control unit (not the wireless terminal) to the base station. In particular, Goodman states that “the controller returns a ‘dial tone’ message to the base station,” and that the terminal identifier is “extract[ed] ... from the information field of the dial tone message.” This is also shown in Figure 9 of Goodman. Thus, Goodman does not teach or suggest a “*portable communication device*” that is configured to “*embed[] the output with identification information associated with the portable communication device,*” as recited in amended claim 1.

In addition, there is no reason why one of ordinary skill in the art would have been motivated to modify the “portable capture device” of August based on Goodman. Goodman has nothing to do with “*hidden data embedded in the audio signal,*” as recited in claim 1. In fact, Goodman does not even include the word “embed” or variations thereof. Rather, Goodman relates to “telecommunications switching systems.” Goodman, col. 1, lines 5-6. In particular, Goodman describes “a new switching system and architecture which is particularly effective in addressing the problem of increased switching burden due to the increasing frequency of boundary crossings as cellular radio cells become smaller.” *Id.*, col. 3, lines 12-16.

In view of the foregoing, Applicant respectfully submits that claim 1 is allowable. Accordingly, Applicant requests that the rejection of claim 1 be withdrawn.

Claims 2 and 4 depend from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 2 and 4 be withdrawn for at least the same reasons as those presented above in relation to claim 1.

Claim 10 has been amended to also “*embedding an output signal with identification information associated with the portable communication device.*” These amendments are supported by at least paragraphs [0043]-[0044] of Applicant’s specification.

Applicant respectfully submits that the cited references do not teach or suggest this added subject matter. The Office Action acknowledges that this claimed subject matter is not taught or

suggested by August. See Office Action, page 12. In addition, Applicant respectfully submits that Goodman does not teach or suggest this subject matter. As discussed above, Goodman does not teach or suggest a “*portable communication device*” that is configured to “*embed[] [a] signal with identification information associated with the portable communication device,*” as recited in amended claim 10. Goodman certainly does not teach or suggest that the signal that is embedded with the “identification information” also “comprises a user selection from among the preferred portions of the extracted information,” as recited in amended claim 10.

In view of the foregoing, Applicant respectfully submits that claim 10 is allowable. Accordingly, Applicant requests that the rejection of claim 10 be withdrawn.

V. Claims 5, 7, 8 and 15-16 Rejected Under 35 U.S.C. § 103(a)

Claims 5, 7, 8 and 15-16 stand rejected under 35 U.S.C. § 103(a) based on August in view of U.S. Patent No. 4,916,691 to Goodman (hereinafter, “Goodman”). Claim 5 has been canceled. With respect to claims 7, 8 and 15-16, Applicant respectfully traverses.

Claim 7 recites a “*base station configured to ... extract hidden data from the processed signal.*” Applicant respectfully submits that the cited references do not teach or suggest this claimed subject matter. The Office Action asserts that this subject matter is taught by August. See Office Action, page 12. However, the Office Action does not specifically indicate where this subject matter is allegedly found in August. Applicant respectfully submits that this subject matter is not taught or suggested by August. August refers to “encoded non-perceptible data.” August, col. 1, line 57. August also states that “the capture device 110 has the capability of ... transmitting (or otherwise outputting) the encoded data (or information retrieved using such data) to a remote location or device.” Id., col. 6, lines 49-53. August also states that “encoded data ... may be transmitted over a wireless link to an associated telephone base station.” Id., col. 6, lines 63-67. However, at no point does August teach or suggest that the base station “*extract[s] hidden data,*” as recited in claim 7. Rather, it appears that the base station simply forwards the encoded data so that it ultimately arrives at a “remote location,” which August indicates may be “agent terminals 120 or 121, interactive service platform 130, or a point of sale system.” Id., col. 6, lines 58-60. Accordingly, Applicant respectfully submits that claim 7 is allowable, and requests that the rejection of claim 7 be withdrawn.

Claim 8 has been amended similarly to claim 1. Claims 15-16 depend from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 8 and 15-16 be withdrawn for at least the same reasons as those presented above in relation to claim 1.

VI. Claims 6 and 9 Rejected Under 35 U.S.C. § 103(a)

Claims 6 and 9 stand rejected under 35 U.S.C. § 103(a) based on August in view of U.S. Patent No. 6,427,064 to Henderson (hereinafter, "Henderson"). Applicant respectfully traverses.

Claims 6 and 9 have been amended similarly to claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 6 and 9 be withdrawn for at least the same reasons as those presented above in relation to claim 1.

VII. New Claim 17

New claim 17 has been added. New claim 17 recites "the output further comprises a user's purchasing selection related to the extracted information, and wherein the identification information facilitates allocation of revenue generated from the user's purchasing selection." New claim 17 is supported by at least paragraphs [0014], [0034] and [0043]-[0044] of Applicant's specification. Applicant respectfully submits that the cited references do not teach or suggest the subject matter of new claim 17.

VIII. New Claims 18-57

New claims 18-57 have been added. Dependent claims 18-44 depend on Independent claims which are believed to be allowable for reasons presented above. As such, Applicant requests claims 18-44 be allowed. Independent claims 45 and 52 are similar to amended claim 10. For reasons already presented above, they should be in condition for allowance. Because claims 46-51 depend on claim 45, and claims 53-59 depend on claim 52, Applicant requests that claims 46-51 and claims 53- 59 be allowed.

VIII. Conclusion

Applicant respectfully submits that the present application is now in condition for allowance. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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